Supreme Court, U.S.
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No. 85-374

In the Supreme Court of the United States

OCTOBER TERM, 1985

LEARA DENSON, PETITIONER

v.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

MEMORANDUM FOR THE RESPONDENT IN OPPOSITION

CHARLES FRIED
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BEST AVAILABLE COPY

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The judgment of the court of appeals in this civil case was entered on March 14, 1985 (Pet. App. 12), and a petition for rehearing was denied on April 29, 1985 (Pet. App. 13). Petitioner did not obtain an extension of the time within which to file a petition for a writ of certiorari, so the petition was required to be filed on or before Monday, July 29, 1985. The petition was filed on July 30, 1985. Although petitioner has certified (Pet. App. 17) that she served the petition by mail on July 26, 1985, she has not filed a notarized statement by a member of the Bar of this Court that would entitle her to invoke Rule 28.2 of the Rules of this Court. The petition is therefore untimely. The time limit provided in 28 U.S.C. 2101(c) is jurisdictional. *Department of Banking* v. *Pink*, 317 U.S. 264 (1942).

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

CHARLES FRIED
Acting Solicitor General

OCTOBER 1985